

ARTICLE 32-03

SALONS

Chapter
32-03-01 Cosmetology Salons

CHAPTER 32-03-01 COSMETOLOGY SALONS

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32-03-01-01. Salon applications. All persons, firms, associations, corporations, partnerships, and other entities desiring to operate a cosmetology salon shall make application to the board for a certificate of registration prior to commencing business. The application shall be made on a form provided by the board and shall be accompanied by the fee of eighty dollars. All renewal applications of cosmetology salons shall be made to the board before December thirty-first in each year. Renewal applications shall be accompanied by the fee of thirty dollars. Prior to any change of ownership, name, location, or address, a cosmetology salon shall apply for reregistration with the board. For rural salons, owners shall supply a detailed map indicating the salon's exact location and directions for driving to that salon.

History: Amended effective July 1, 1988; January 1, 2002; December 1, 2005.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-13, 43-11-15, 43-11-17, 43-11-28

32-03-01-02. Floor plan. Every application for a certificate of registration shall be accompanied by a detailed floor plan of the proposed salon premises. The floor plan shall show entrances, exits, locations of equipment, reception area, supply area, toilet facilities, hallways, and facilities to maintain sanitary conditions. A copy of an approved inspection report by local, county, or state

authorities governing plumbing, electrical, and building codes is required prior to final inspection. A revised floor plan shall be filed with the board in the event of any change of location or major changes in the salon premises.

History: Amended effective July 1, 1988; July 1, 1990; March 1, 1998; December 1, 2005.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-11

32-03-01-03. Zoning. Repealed effective July 1, 1988.

32-03-01-03.1. Salon transfer. Purchasers of existing salons shall meet the requirements of a new salon.

History: Effective July 1, 1988.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-11

32-03-01-04. Certificates displayed. Every cosmetology salon shall conspicuously display its certificate of registration in the reception area of the salon.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-14

32-03-01-05. Separate establishments. Cosmetology salons shall be located separately from cosmetology schools.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-11, 43-11-16

32-03-01-06. Changes in operators or manager-operators. Repealed effective March 1, 1998.

32-03-01-07. Manager-operator. Every cosmetology salon shall have a manager-operator who shall be responsible for the operation, conduct, and management of the salon. The manager-operator shall be present on the salon premises during business hours, except the manager-operator may take breaks or leave to perform other responsibilities for periods of time that do not exceed one hour and the manager-operator need not be present if cosmetology services are not being performed. Each salon owner or manager-operator shall provide the office with an accurate schedule of the days and hours the salon is open for business.

History: Amended effective July 1, 1988; March 1, 1998; July 1, 2000.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-15

32-03-01-08. Tools and supplies. Each cosmetology salon shall maintain tools, supplies, instruments, and equipment adequate for the number of operators and manager-operators employed and adequate to serve the public in cosmetology.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-11

32-03-01-09. Signs. Every cosmetology salon shall display and maintain a sign that is clearly visible to anyone approaching the entrance to the salon. The sign shall designate the establishment as a cosmetology establishment and give the name of the salon.

History: Amended effective July 1, 1988; March 1, 1998.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-11, 43-11-13

32-03-01-10. Booth space. In the event any salon premises are divided into booth space allotments to be leased to others, each person, firm, association, partnership, corporation, or other entity whose name appears on the application as operator of the booth space shall be responsible for the sanitary conditions of the space. Booth rental salons are subject to inspections during the operation whether or not a booth operator is available. The owner of the cosmetology salon shall be responsible for keeping the entire salon open for inspection by the board or board inspectors, and the board shall examine and inspect the entire salon premises regardless of any booth space allotments.

Each booth space allotment shall be licensed as a separate salon having a separate and independent certificate of registration, and each booth space allotment shall be operated only by a manager-operator, master manicurist, or master esthetician.

1. **Compliance as salon.** Each booth space allotment must have adequate workspace. The salon premises must meet all of the requirements of a salon contained in North Dakota Century Code chapter 43-11 and this article, except that there may be common reception areas, common toilet facilities, common product dispensing area, and common entrances and exits.
2. **Certificates displayed.** The certificate of registration for each booth space allotment shall be displayed in the booth.
3. **Premises used.** Each manager-operator, master manicurist, or master esthetician operating a booth space salon shall be responsible for all professional services performed and for all of the premises used.

History: Amended effective February 1, 1996; March 1, 1998; December 1, 2005.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-11, 43-11-13, 43-11-15, 43-11-17

32-03-01-11. Salon discontinuance. Each cosmetology salon intending to discontinue its operation shall notify the office in writing prior to the final date of operation.

History: Amended effective July 1, 1988; March 1, 1998.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-13, 43-11-15

32-03-01-12. Application for license to practice cosmetology for the homebound. All licensed cosmetologists not associated with licensed salons desiring to provide cosmetology services for the homebound shall make application to the board for a homebound license and meet the following requirements:

1. Possess a valid manager-operator, master manicurist, or master esthetician license.
2. Possess a kit and present the kit for inspection by a board-approved inspector. The kit must contain the following:
 - a. License;
 - b. Copy of rules of sanitation;
 - c. First-aid kit complying with section 32-02-01-07; and
 - d. Separate closed labeled containers for soiled and clean supplies.
3. Comply with all rules of disinfection for combs, brushes, tools, and other equipment as provided in section 32-02-01-10.
4. The original fee for a homebound license is fifty-five dollars per year and annual renewals are thirty dollars per year and yearly inspections must be coordinated with the board office.

History: Effective February 1, 1996; amended effective July 1, 1996; August 8, 1996; December 1, 2005.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-01, 43-11-11, 43-11-13, 43-11-13.2, 43-11-14, 43-11-21, 43-11-22, 43-11-23, 43-11-24, 43-11-28

OBJECTION

THE LEGISLATIVE COUNCIL'S COMMITTEE ON ADMINISTRATIVE RULES OBJECTS TO NORTH DAKOTA ADMINISTRATIVE CODE SECTION 32-03-01-12 AS ADOPTED BY THE STATE BOARD OF COSMETOLOGY EFFECTIVE FEBRUARY 1, 1996.

The committee objects to this rule because the committee deems it to be unreasonable, arbitrary, or capricious. The committee believes this rule exceeds the intent of the Legislative Assembly by unduly restricting the availability of cosmetology services to homebound persons.

Section 28-32-03.3 provides that after the filing of a committee objection, the burden of persuasion is upon the agency in any action for judicial review or for enforcement of the rule to establish that the whole or portion thereof objected to is within the procedural and substantive authority delegated to the agency. If the agency fails to meet its burden of persuasion, the court shall declare the whole or portion of the rule objected to invalid and judgment shall be rendered against the agency for court costs.

History: Effective May 29, 1996.

General Authority: NDCC 28-32-03.3

32-03-01-13. Brush rollers. All brush rollers must be free of hair before sanitizing.

History: Effective March 1, 1998.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-11, 43-11-11.1

32-03-01-14. Practice outside of salon. A manager-operator, master manicurist, or master esthetician may practice outside of a salon establishment if:

1. The manager-operator, master manicurist, or master esthetician has one year of work experience;
2. The manager-operator, master manicurist, or master esthetician follows all applicable rules of sanitation adopted in chapter 32-02-01; and
3. Cosmetology services are not provided in a manner or frequency to cause the location where the services are provided to constitute a salon as defined in section 32-01-02-01.

History: Effective July 1, 2000; amended effective December 1, 2005.

General Authority: NDCC 43-11-05, 43-11-11

Law Implemented: NDCC 43-11-11